



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R. SWAMINATHAN**

W.P. (MD) No.23645 of 2017

WEB COPY
Muniyandi

... Petitioner

Vs

1.The District Registrar,
Ramanathapuram.

2.The Sub Registrar,
Velipattinam,
Ramanathapuram.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the 2nd respondent in pending Document No.P33/2017, dated 17.11.2017 and quash the same and consequently direct the 2nd respondent herein to register the cancellation of Settlement Deed dated 03.07.2017 pending as Document No.P-33/2017 and return the said document to the petitioner after completing the registration.

For Petitioner : Mr.D.Srinivasa Ragavan

For Respondents : Mr.M.Murugan
Government Advocate

ORDER

Heard the learned counsel on either side.

2.The writ petitioner/Muniyandi had executed a settlement deed dated 27.07.2015 in favour of one K.Thangavel. The said document was sought to be cancelled vide deed dated 03.07.2017. The second respondent declined to register the same. It was kept as pending document. According to the second respondent, the document dated 03.07.2017 presented by the writ petitioner amounts to conveyance within the meaning of Section 23 of the Indian Stamp Act, 1899. A check slip dated 17.11.2017 was issued to this effect. This check slip is under challenge in this writ petition.

3.This Court went through the contents of document. It does not appear to be cancellation simpliciter. On the other hand, there is a reference to the compromise arrived at between the parties in O.S.No.97 of 1997 on the file of the Sub Court, Ramanathapuram. Therefore, the second respondent was justified in taking a stand that the document will not be registered unless the stamp duty as contemplated under Section 23 of the Indian Stamp



Act is remitted. The order impugned in this writ petition is sustained and the Writ Petition stands dismissed. At this stage, the learned counsel appearing for the writ petitioner states that the second respondent has virtually taken a stand that he would not register a document, cancelling the settlement deed already registered. Even though in the counter affidavit filed by the second respondent a stand has been taken on those lines. It is not clarified that if both the parties come forward for cancelling the earlier deed, the registering authority cannot have any objection. What is objectionable is only the unilateral cancellation of a document. When there is consensus between the parties to a document, they can always present their deed of cancellation simpliciter. But it is made clear that the said document should stop with effecting cancellation of an already executed document. It should not contain anything further. If such a document is presented jointly by Muniyandi and Thangavel, the second respondent is directed to register the same. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

To:

1.The District Registrar,
Ramanathapuram.

2.The Sub Registrar,
Velipattinam,
Ramanathapuram.

+1 CC to M/s.D.SRINIVASARAGAVAN, Advocate (SR-58693[F] dated 03/04/2019)

+1 CC to M/s.SPL GP (SR-59254[F] dated 05/04/2019)

IAS

W.P. (MD) No.23645 of 2017

03.04.2019

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